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Chernoff, Vilhauer, McClung & Stenzel, LLP
1600 ODS Tower
601 SW Second Avenue
Portland, OR 97204

EXAMINER
OUELLETTE, JONATHAN P

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 14

Application Number: 09/757,322
Filing Date: January 09, 2001
Appellant(s): SHAH ET AL.

Timothy A. Long
Reg. No. 28,876
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/28/2003.

(1)   Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2)   Related Appeals and Interferences

A statement identifying the related appeals and interferences, which will directly

affect or be directly affected by or have a bearing on the decision in the pending appeal

is contained in the brief.

(3)   Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4)   Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection

contained in the brief is correct.

(5)   Summary of Invention

The summary of invention contained in the brief is correct.

(6)   Issues

The appellant's statement of the issues in the brief is correct.

(7)   Grouping of Claims

Appellant's brief includes a statement that the dependent claims shall stand or fall together based on the following groups:

A. Claim 2

B. Claim 3

C. Claims 4 and 5

D. Claim 6

E. Claim 7

F. Claims 8, 9, and 10

G. Claim 12

H. Claim 13

I. Claim 18

J. Claims 19 and 20

However, the appellant fails to provide reasoning (in the "grouping of claims" section or the "arguments" section) for the grouping as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Furthermore, the appellant fails to state how Independent Claims 1, 11, and 15 should be grouped. Therefore, the independent claims shall stand or fall together based on the following groups:

K. Independent Claims 1 and 15

L. Independent Claim 11

(8)   Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9)   Prior Art of Record

www.monster.com,	Monster	1/1998

Retrieved from Internet

Archive Wayback Machine

<www.archive.org>.

www.simpatix.com,	Simpatix	11/1999 - 1/2000

Retrieved from Internet

Archive Wayback Machine

<www.archive.org>.

US 2002/0019768 A1	Fredrickson et al.	2/2002

(10)   Grounds of Rejection

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

    obviousness rejections set forth in this Office action:

> (a)   A patent may not be obtained though the invention is not identically disclosed or described as set forth
> in section 102 of this title, if the differences between the subject matter sought to be patented and the
> prior art are such that the subject matter as a whole would have been obvious at the time the invention
> was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability
> shall not be negatived by the manner in which the invention was made.

2. **Claims 1-3, 6-10, and 15-18 are rejected under 35 U.S.C. 103(a) as being**

    unpatentable over Monster (www.monster.com, screen print, 1/24/1998) in

view of Simpatix (www.simpatix.com, Retrieved from Internet Archive

Wayback Machine <www.archive.org>, Date Range: 11/16/1999-1/29/2000).

3. As per independent Claims 1 and 15, Monster discloses a method (employment

recruiting system) of <u>identifying a candidate for a position of</u> employment<u>, said</u>

<u>method</u> comprising the steps of: a) creating a position advertisement <u>including a</u>

<u>datum particularizing said position of employment</u>; b) storing said position

advertisement in a computer searchable database; c) <u>associating a</u> keyword with

said position advertisement; and g) presenting <u>an identity of a candidate</u>

<u>associated with</u> said candidate resume <u>identified by said search</u> to a computer

user (www.monster.com).

4. Monster fails to expressly disclose <u>d) associating a search periodicity with said</u>

<u>position advertisement; e) upon expiration of a period substantially equal to said</u>

<u>search periodicity,</u> searching at least one computer searchable <u>candidate</u>

database for a candidate resume including said keyword.

5. However, Monster does teach performing continuous resume search for an

employer through a system call "'Cruiter", and automatically notifying the

employer when a resume matching the predefined criteria (keywords) is located

(www.monster.com).

6. Therefore, it would have been obvious to one of ordinary skill at the time the

invention was made to use the same system/technique for periodic searching

and matching candidates, as the system presented by Monster appears to be an

improvement on the claimed invention and neither the specification, drawings,

nor claims explain the advantage of periodic searching for candidates. Furthermore, technically Monster's system for searching, although categorized as 24/7 continuous searching, would have to be periodic due to the physical limitations of starting a search, finishing the search and restarting the search – although the period would be a matter of nanoseconds, there would still be a slight period/break before restarting the search.

7. While Monster does teach performing a keyword search for both jobs and candidates contained in the employment database, Monster fails to expressly disclose f) scoring a candidate resume identified by said search as a function of said keyword.

8. However, Simpatix discloses scoring an applicant pool using resume keywords (www.simpatix.com).

9. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included f) scoring a candidate resume identified by said search as a function of said keyword, as disclosed by Simpatix in the system disclosed by Monster, for the advantage of offering an employer additional sortation method for resumes matching predetermined criteria (besides, date resume created, location, experience, etc.).

10. As per Claim 2, Monster and Simpatix disclose wherein the step of scoring a candidate resume identified by said search as a function of a keyword comprises the steps of: a) identifying a number of occurrences of said keyword in said candidate resume identified by said search; and b) comparing said number of

occurrences to a threshold (possibly 1) number of occurrences (Simpatix:

"Simpatix Launches Hiretrack, Web-based Recruiting Software with Enhanced

Pre-screening Capabilities," Business Wire, February 24, 1999).

11. As per Claim 3, Monster and Simpatix disclose a) assigning a significance to a

keyword; and b) influencing said scoring of said candidate resume as a function

of said significance of said keyword (Simpatix: www.simpatix.com).

12. As per Claim 6, Monster and Simpatix disclose further comprising the steps of: a)

associating an identity of a computer searchable candidate database with said

position advertisement; and b) upon expiration of a period substantially equal to

said search periodicity, searching said candidate database associated with said

position advertisement (Monster: www.monster.com).

13. As per Claim 7, Monster and Simpatix disclose wherein the step of searching at

least one computer searchable candidate database comprises the steps of: a)

storing an identity of a searchable, computer network accessible, candidate

database; b) upon expiration of a period substantially equaling said search

periodicity; accessing said computer network accessible candidate database with

a computer; c) analyzing a text of a candidate resume (profile) stored in said

computer network accessible candidate database; d) scoring an occurrence of

said keyword in said text of said candidate resume; and e) as a function of said

scoring, copying said candidate resume to another candidate database (Monster:

www.monster.com) (Simpatix: www.simpatix.com).

14. As per Claim 8, Monster and Simpatix disclose wherein the step of creating a position advertisement comprises the steps of: a) accessing a position advertisement template, said template comprising of at least one candidate qualification entry; and b) including in a candidate qualification entry of said template no more than one candidate qualification (Monster: www.monster.com).

15. As per Claim 9, Monster and Simpatix disclose identifying at least one keyword associated with a candidate qualification entry (Monster: www.monster.com).

16. As per Claim 10, Monster and Simpatix disclose assigning significance to said keyword (Monster: www.monster.com) (Simpatix: www.simpatix.com).

17. As per Claim 16, Monster and Simpatix disclose a) a searchable third data structure accessible from a computer network, said third data structure storing at least one candidate resume; and b) a network interface enabling said data processing device to search said third data structure for a candidate resume including said keyword (Monster: www.monster.com).

18. As per Claim 17, Monster and Simpatix disclose wherein said data processing device comprises: a) a parser instruction to decompose said candidate resume to text; and b) a matching instruction to identify a character string corresponding to said keyword in said text (Monster: www.monster.com).

19. As per Claim 18, Monster and Simpatix disclose wherein said data processing device comprises a resume scoring instruction to score said candidate resume as a function of an occurrence of a character string corresponding to said keyword (Simpatix: www.simpatix.com).

20. <u>Claims 4-5, 11-14, and 19-20</u> are rejected under 35 U.S.C. 103(a) as being unpatentable over Monster in view of Simpatix, and further in view of Fredrickson et al. (US 2002/0019768 A1).

21. As per independent Claim 11, (as explained above for independent Claims 1 and 15) Monster and Simpatix disclose a method of employment recruiting comprising the steps of: a) creating a position advertisement, <u>including a datum particularizing a position of employment;</u> b) associating <u>a keyword</u> with said position advertisement; c) storing said position advertisement <u>and said keyword</u> in a computer searchable database; d) <u>associating a</u> search <u>periodicity</u> parameter in a computer searchable database; e) <u>in response to expiration of a period substantially equal to said</u> search parameter, initiating a computer search of at least one computer searchable <u>candidate</u> database for a candidate resume including said keyword; f) scoring <u>a</u> candidate resume <u>identified by said search</u> as a function of said included keyword; g) including an identification of a candidate associated with said candidate resume in a result <u>reportable</u> to a computer user if said <u>keyword</u> score of said candidate resume at least equals a threshold <u>keyword</u> score; (Monster: www.monster.com) (Simpatix: www.simpatix.com).

22. While Simpatix does disclose scoring an applicant pool using answers to custom questions, both Monster and Simpatix fail to disclose h) in response to <u>a determination that</u> said <u>keyword</u> score, <u>at least equals said threshold keyword score, automatically</u> contacting said candidate and requesting a response to at

least one screening question associated with said position advertisement; i)

scoring a response of said candidate to said screening question; and j) reporting

said screening question response score in a search result presented to said

computer user.

23. However, Fredrickson teaches incorporating a screening system with an

employment system (Abstract, Para 0163-0164).

24. Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to have included h) in response to <u>a determination</u>

<u>that</u> said <u>keyword</u> score, <u>at least equals said threshold keyword score,</u>

<u>automatically</u> contacting said candidate and requesting a response to at least

one screening question associated with said position advertisement; i) scoring a

response of said candidate to said screening question; and j) reporting said

screening question response score in a search result presented to said computer

user, as disclosed by Fredrickson, in the system disclosed by Simpatix, in the

system disclosed by Monster, for the advantage of offering an employer

additional assurance that the matched resume/candidates are qualified for a

potential position with the employer.

25. As per Claim 4, Monster, Simpatix, and Fredrickson disclose a) <u>associating</u> at

least one candidate screening question with said position advertisement; b) <u>upon</u>

<u>identification of a candidate resume by said search, automatically</u> requesting a

response to said <u>candidate</u> screening question from a candidate resume

identified by said search; and c) scoring a response by said candidate to said

candidate screening question (Fredrickson: Abstract, Para 0163-0164).

26. As per Claim 5, Monster, Simpatix, and Fredrickson disclose a) assigning a

significance to said response; and b) influencing said scoring of said response as

a function of said significance of said response (Fredrickson: Abstract, Para

0163-0164).

27. As per Claim 12, Monster, Simpatix, and Fredrickson do not expressly disclose

a) requesting said candidate approve contact with an employment reference; b)

upon receipt of said approval, automatically requesting a response of said

employment reference to at least one reference query; and c) reporting said

response to said reference query in a search result presented to said computer

user.

28. However, the examiner gives official notice that employment reference checks

were well known at the time the invention was made.

29. Therefore it would have been obvious to include a) requesting said candidate

approve contact with an employment reference; b) upon receipt of said approval,

automatically requesting a response of said employment reference to at least

one reference query; and c) reporting said response to said reference query in a

search result presented to said computer user, in the system disclosed by

Monster, for the advantage of verifying the background and experience of

potential employment candidates.

30. As per Claim 13, Monster, Simpatix, and Fredrickson disclose a) assigning a

significance to said keyword; and b) influencing said <u>keyword</u> score <u>of said</u>

<u>candidate resume</u> as a function of significance of said keyword (Simpatix:

www.simpatix.com).

31. As per Claim 14, Monster, Simpatix, and Fredrickson disclose <u>automatically</u>

repeating said search in response to <u>expiration of a period substantially equal to</u>

<u>said</u> search <u>periodicity</u> parameter associated with said position advertisement

(Monster: www.monster.com).

32. As per Claim 19, Monster, Simpatix, and Fredrickson disclose wherein said data

processing device comprises: a) a position advertisement template user interface

including at least one candidate qualification entry <u>to be associated with said</u>

<u>employment position</u>; and b) a screening question template user interface

comprising at least <u>one</u> candidate screening query to be associated with said

<u>employment</u> position (Monster: www.monster.com) (Fredrickson: Abstract, Para

0163-0164).

33. As per Claim 20, Monster, Simpatix, and Fredrickson disclose said resume

scoring instruction <u>further</u> comprises a screening query scoring instruction to

score a response to <u>a</u> candidate screening query as a function of a significance

weight associated with said <u>candidate</u> screening query (Fredrickson: Abstract,

Para 0163-0164).

(11)   ***Response to Argument***

The appellant has made the argument for independent Claims 1 and 15 (grouping K), that the prior art of Monster fails to disclose associating a search periodicity with a position advertisement and searching a candidate database for a resume upon expiration of a period substantial equal to the search periodicity.

However, Monster does disclose that the "Cruiter" search agent will search the database for you weekly [search periodicity] (www.monster.com, screen print, pg.8, para3).

The appellant has also made the argument for independent Claims 1 and 15 (grouping K), that the prior art of Monster in view of Simpatix fails to disclose searching a candidate database for a resume including a specified keyword and scoring a candidate resume identified by the search as a function of the keyword.

However, Simpatix does disclose wherein the user specifies which *keywords* they would like to see on resumes (www.simpatix.com, screen print, pg.6, para 3), and using both *resume keywords* and responses to questions – producing a ranked list of qualified candidates (www.simpatix.com, screen print, pg.7, para 3).

The appellant has also made the argument for independent Claim 11 (grouping L), that the prior art of Fredrickson is not prior art to the application and lacks motivation to combine the art of Fredrickson with that of Monster and Simpatix.

However, the Fredrickson reference is related to a non-provisional of provisional application No. 60/173,669, filed on Dec.30, 1999 – as is printed on the front of Pre-Patent Publication US 2002/0019768. Although the filing date is misprinted on paragraph 0001 of the pre-patent publication as Dec. 30, 2000, the appellant was sent a copy of the USPTO palm report for the provisional application (PTO-892, Paper 11) (Appendix 1 of the Examiner's Answer), which displayed the correct filing date of 12/30/1999, after a declaration was sent with the first appeal brief (paper 10).

Furthermore, Monster, Simpatix, and Fredrick all disclose systems/methods for employee recruitment, which deal with placing a job and collecting candidate responses.

The appellant has also made the argument for Claim 2 (grouping A), that the prior art of Simpatix fails to disclose scoring a resume by identifying a number of occurrences of a keyword and comparing the number of occurrences to a threshold.

However, Simpatix does disclose wherein the user specifies which *keywords* they would like to see on resumes (www.simpatix.com, screen print, pg.6, para 3), and using both *resume keywords* [wherein the threshold could be 1] and responses to questions – producing a ranked list of qualified candidates (www.simpatix.com, screen print, pg.7, para 3).

The appellant has also made the argument for Claim 3 (grouping B), that the prior art of Simpatix fails to disclose assigning significance to a keyword and influencing the scoring of a resume as a function of the assigned significance.

However, Simpatix does disclose wherein the user specifies which *keywords* they would like to see on resumes [assigning a significance of 1] (www.simpatix.com, screen print, pg.6, para 3), and using both *resume keywords* and responses to questions – producing a ranked list of qualified candidates (www.simpatix.com, screen print, pg.7, para 3).

The appellant has also made the argument for Claims 4 and 5 (grouping C), that the prior art of Fredrickson is not prior art to the application.

However, the Fredrickson reference is related to a non-provisional of provisional application No. 60/173,669, filed on Dec.30, 1999 – as is printed on the front of Pre-Patent Publication US 2002/0019768. Although the filing date is misprinted on paragraph 0001 of the pre-patent publication as Dec. 30, 2000, the appellant was sent a copy of the USPTO palm report for the provisional application (PTO-892, Paper 11) (Appendix 1 of the Examiner's Answer), which displayed the correct filing date of 12/30/1999, after a declaration was sent with the first appeal brief (paper 10).

The appellant has also made the argument for Claim 6 (grouping D), that the prior art of Monster fails to disclose associating an identity of a computer

searchable database with a position advertisement and searching associated

database in response to expiration of a search periodicity associated with the

position advertisement.

However, Monster does disclose creating a searchable database of

resumes associated with all position advertisements [Resume City]

(www.monster.com, screen print, pg.8, para2).

Simpatix discloses creating an applicant database based on user search

requirements [position advertisement] (www.simpatix.com, screen print, pg.4,

para4-5).

Furthermore, Monster discloses that the "Cruiter" search agent will search

the database for you weekly [search periodicity] (www.monster.com, screen print,

pg.8, para3).

The appellant has also made the argument for Claim 7 (grouping E), that the

prior art of Monster in view of Simpatix fails to disclose searching a network

accessible database of resumes and copying a resume to another database on

the basis of an occurrence of a keyword in the text of the resume.

However, Monster does disclose that the "Cruiter" search agent will

search the database for you weekly [search periodicity] (www.monster.com,

screen print, pg.8, para3).

Furthermore. Simpatix discloses creating an applicant database based on user search requirements [keyword requirements] (www.simpatix.com, screen print, pg.4, para4-5).

The appellant has also made the argument for Claims 8, 9, and 10 (grouping F), that the prior art of Monster in view of Simpatix fails to disclose a position advertisement template, including at least one candidate qualification entry that comprises no more than one candidate qualification.

However, Monster does disclose a job posting section of the system wherein the jobs are organized by location and discipline [qualification] (www.monster.com, screen print, pg.6, para1).

Furthermore, Simpatix discloses wherein the system user types the job posting copy [qualification], and the system automatically creates a listing and seamlessly incorporates it into the "Job Opportunities" section of the user's Web site (www.simpatix.com, screen print, pg.3, para2).

The appellant has also made the argument for Claim 12 (grouping G), that the prior art of Monster in view of Simpatix, further in view of Fredrickson, fails to disclose requesting candidate approval of contact with an employment reference; automatically requesting a response of the reference to a reference query, in response to receipt of approval of the request by the candidate; and reporting the response to the reference query to a computer user.

However, as stated in the rejection above, the examiner gives official notice that employment reference checks were well known at the time the invention was made.

Therefore it would have been obvious to include a) requesting said candidate approve contact with an employment reference; b) <u>upon receipt of said approval, automatically</u> requesting a response of said employment reference to at least one reference query; and c) reporting said response to said reference query in a search result presented to said computer user, in the system disclosed by Monster, for the advantage of verifying the background and experience of potential employment candidates

The appellant has also made the argument for Claim 13 (grouping H), that the prior art of Simpatix fails to disclose weighting or influencing the score of an extracted keyword or scoring a resume as a function of the significance of an included keyword.

However, Simpatix does disclose wherein the user specifies which *keywords* they would like to see on resumes [assigning a significance of 1] (www.simpatix.com, screen print, pg.6, para 3), and using both *resume keywords* and responses to questions – producing a ranked [the number of keywords specified would influence the ranking/scoring] list of qualified candidates (www.simpatix.com, screen print, pg.7, para 3).

The appellant has also made the argument for Claim 18 (grouping I), that the prior art of Simpatix fails to disclose scoring candidate resumes on the basis of occurrence of a character string comprising a keyword.

However, Simpatix does disclose wherein the user specifies which *keywords* they would like to see on resumes (www.simpatix.com, screen print, pg.6, para 3), and using both *resume keywords* and responses to questions – producing a ranked list of qualified candidates (www.simpatix.com, screen print, pg.7, para 3).
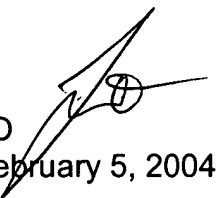
The appellant has also made the argument for Claims 19 and 20 (grouping L), that the prior art of Fredrickson is not prior art to the application.

However, the Fredrickson reference is related to a non-provisional of provisional application No. 60/173,669, filed on Dec.30, 1999 – as is printed on the front of Pre-Patent Publication US 2002/0019768. Although the filing date is misprinted on paragraph 0001 of the pre-patent publication as Dec. 30, 2000, the appellant was sent a copy of the USPTO palm report for the provisional application (PTO-892, Paper 11) (Appendix 1 of the Examiner's Answer), which displayed the correct filing date of 12/30/1999, after a declaration was sent with the first appeal brief (paper 10).
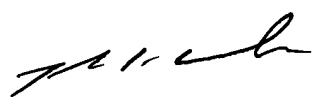
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

JO
February 5, 2004

JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Conferees

Chernoff, Vilhauer, McClung & Stenzel, L.L.P.
1600 ODS Tower
601 SW Second Avenue
Portland, Oregon 9720411